

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 03-CR-182

PAUL A. KRUEGER,

Defendant.

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**STATEMENT ON REMAND**

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This matter is before me on a limited remand from the United States Court of Appeals for the Seventh Circuit pursuant to *United States v. Paladino*, 401 F.3d 471, 481-84 (7th Cir. 2005). The remand was for the purpose of allowing the district court to determine whether it would have sentenced the defendant differently had it known that the guidelines are advisory rather than mandatory. In the event that the district court advises the Court of Appeals that it likely would have imposed a lesser sentence than the guidelines require, plain error would be found and the sentence will be vacated. *Id* at 486.

Upon receiving the limited remand from the Court of Appeals, the court requested the parties submit written statements regarding their respective positions on the limited issue before the court. While the government did not submit any statement, counsel for the defendant submitted an eighteen-page brief thoroughly discussing the question before the court. The matter is now ripe for a determination. Having reviewed the presentence report, the sentencing transcript and the briefs

submitted by the defendant, I hereby advise the Court of Appeals that, had I known that the sentencing guidelines were advisory, I would likely have imposed a lessor sentence.

Dated this 6th day of September, 2005.

s/ William C. Griesbach  
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William C. Griesbach  
United States District Judge